



**Public Law 110-289**

**TITLE V—S.A.F.E. MORTGAGE LICENSING ACT**

“Secure and Fair Enforcement for Mortgage Licensing Act of 2008”

*The S.A.F.E. Act*

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**Licensing Requirements, Standards, and Mandates**

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On July 30th, 2008, the President signed the Housing and Economic Recovery Act of 2008 (H.R. 3221) into law to stabilize the housing market and help alleviate the financial crisis. Title V of the Act, the Secure and Fair Enforcement (S.A.F.E.) for Mortgage Licensing Act of 2008, affirms that any residential mortgage loan originator must be either State-licensed by August 1, 2009, or federally registered. These loan originators must also register with the Nationwide Mortgage Licensing System and Registry to increase uniformity and reduce fraud.

According to the requirements of the S.A.F.E. Act, starting August 1, 2009, any individual who, for compensation or gain, takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan application must be licensed or registered as a Mortgage Loan Originator.

The S.A.F.E. Mortgage Licensing Act of 2008 does not provide any exceptions to licensing for individuals conducting above activities. Real estate brokerage, loan processing and loan underwriting activities are not covered.

This document provides a brief summary of the licensing requirements, standards, and mandates of the S.A.F.E. Mortgage Licensing Act of 2008:

**Licensing Requirements:**

Mortgage Loan Originators must:

- Provide fingerprints for an FBI criminal history background check
- Provide authorization for NMLS&R to obtain a credit report
- Input and maintain their personal Mortgage Loan Originator record in NMLS&R as their license in each state in which they wish to conduct loan origination activity
- Pass a national mortgage test
- Take 20 hours of pre-licensure education courses approved by NMLS&R. The education must include:
  - 3 hours of federal law and regulations
  - 3 hours of ethics, which must include fraud, consumer protection, and fair lending
  - 2 hours of standards on non-traditional mortgage lending

## **Licensing Standards:**

All state-licensed Mortgage Loan Originators must meet the following standards:

- Never had a loan originator license revoked; and
- Has had no felonies in the past seven years; and
- Never had a felony involving fraud, dishonesty, breach of trust or money laundering; and
- Demonstrates financial responsibility and general fitness; and
- Scores 75% or better on a national test created by NMLS&R. The test will include:
  - Ethics
  - Federal law and regulation
  - State law and regulation
  - Federal and state law and regulation pertaining to fraud, consumer protection, nontraditional mortgages, and fair lending; and
- Takes eight hours of continuing education annually. The education must include:
  - 3 hours of federal law and regulations
  - 3 hours of ethics, which must include fraud, consumer protection, and fair lending
  - 2 hours of standards on non-traditional mortgage lending; and
- Maintain licensure through NMLS&R.

# **Mandates of the S.A.F.E. Mortgage Licensing Act**

## **Industry**

- All residential mortgage loan originators must be either state-licensed or federally registered.
  - A mortgage loan originator employed by a federally insured depository institution or any credit union or an owned and controlled subsidiary that is federally supervised must be registered.
  - All other mortgage loan originators, without exception, must be state licensed.
- All state licensed and federally registered mortgage loan originators must be registered with the Nationwide Mortgage Licensing System & Registry maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

## **States**

- All states must have a system of licensing in place for residential mortgage loan originators by August 1, 2009 that meets national definitions and minimum standards, that include, among other things:
  - criminal history and credit background checks
  - pre-licensure education
  - pre-licensure testing
  - continuing education
  - net worth, surety bond or recovery fund
- All states must license mortgage loan originators through NMLS&R.

## **U.S. Department of Housing and Urban Development (HUD)**

- HUD must determine:
  - That the state's mortgage loan originator licensing standards meet the federally mandated minimums, and
  - That the state is participating in NMLS&R.
- If HUD determines that a state not in compliance with both items above, HUD must implement a system for all state licensed mortgage loan originators in that state.

### **Federal Banking Agencies/Federal Financial Institutions Examination Council/Farm Credit Administration**

- Must develop and maintain a system for registering employees of federally insured depositories and subsidiaries they own and control, and employees of Farm Credit Administration regulated entities, with NMLS&R. Registering with NMLS&R requires registered loan officers to submit fingerprints for a state and federal background check and personal history and experience.
- Shall coordinate with NMLS&R in assigning unique identifier.

### **Conference of State Bank Supervisors/American Association of Residential Mortgage Regulators**

- CSBS and AARMR must develop and maintain the Nationwide Mortgage Licensing System and Registry for the purposes identified in the Section 1502 of P.L. 110-289.

### **Nationwide Mortgage Licensing System and Registry**

- NMLS&R must establish protocols for the issuance of unique identifiers.
- NMLS&R must receive and process fingerprints for national and state criminal history background checks for all loan originators.
- NMLS&R must review and approve, using reasonable standards, pre-licensure and continuing education courses.
- NMLS&R must develop a qualified written test and approve test providers.
- NMLS&R must develop a mortgage call report.
- NMLS&R must provide public access to licensing information.